

AT A REGULAR MEETING OF THE CULPEPER COUNTY BOARD OF SUPERVISORS HELD IN THE BOARD ROOM, LOCATED AT 302 N. MAIN STREET, ON TUESDAY, AUGUST 7, 2007.

Board Members Present: **John F. Coates, Chairman**
 Steven E. Nixon, Vice-Chairman
Larry W. Aylor
William C. Chase, Jr.
Sue D. Hansohn
Brad C. Rosenberger
Steven L. Walker

Staff Present: Frank T. Bossio, County Administrator
J. David Maddox, County Attorney
John C. Egertson, Planning Director
Sam McLearen, Zoning Administrator
Peggy S. Crane, Deputy Clerk

CALL TO ORDER

Mr. Coates, Chairman, called the meeting to order at 7:00 pm.

CITIZEN FORUM

Mr. Coates opened the Citizen Forum and called for comments on any item that was not on the agenda.

Mr. Robert Wical of Culpeper spoke regarding the ICE Section 287(g) program. He distributed background information to the Board prepared by the Center of Immigration Study that explained why the Federal Government was not enforcing an order on illegal immigration. He stated that the immigration problem was going to get worse, and he urged the Board to vote in favor of sending law enforcement personnel for ICE training.

Mr. John Clatterbuck, Jefferson District, stated he was pleased the Board had recognized that illegal aliens in the community were a problem and passed a policy on placing referendum questions on the ballot, approved a resolution to make English the office language of Culpeper County, and approved participation in coalitions with other localities. He provided copies of resolutions passed by Prince William and Loudoun Counties on illegal immigrants.

Mr. George Bryson, Jefferson District, spoke at length regarding actions he alleged were taken against him and the effect on his health. He addressed the boundary adjustments between the Town and County and suggested that the Town boundary be adjusted to use the old Spotswood line as a guide. He provided copies of a drawing showing his proposed boundary line adjustments.

Mr. Matthew Grimsley, Newby Shop Road, Stevensburg District, spoke in protest of the archery club located across from his home that was approved and stated he wished to correct

some misconceptions made during a prior public hearing. He said claims were made that there had been no incidents on the archery property, but his dog had been killed on the archery range, and it was not addressed by Animal Control or the Game Warden, and the club did nothing to assist. He said he had also found an arrow in his family's front field and another one recently near his mailbox. He pointed out that the owner had operated the club for six years without a permit, and he wanted to know how he could be heard regarding these offenses against him and his family.

Mr. Jonathan Grimsley, Stevensburg District, spoke regarding the safety hazards of the archery club and the unsafe conditions of crossbows being used by individuals with disabilities. He questioned the need for crossbows to shoot at a target 10 feet away. He said that his father and brother had obtained 25 signatures from motorists on Newby Shop Road who agreed they did not feel safe with the archery club in close proximity to their homes.

Mr. Andy Grimsley, father of Matthew and Jonathan Grimsley, stated he was disappointed with the Board's approval of the use permit for the archery club and felt that the health, safety and welfare of the neighbors were not being protected. He said he had planned to make his 50-acre river-front property in Culpeper County his permanent home, but had been discouraged by the Board's approval of the use permit, and he was moving into another home he purchased in Blacksburg, Virginia because he did not want to place his family at risk at the current location. He reiterated that there was definitely a safety issue existing in the Newby Shop Road neighborhood and quoted an incriminating comment that the owner of the club had made to a uniformed Animal Warden regarding the killing of his dog and no action was taken.

Ms. Donna Kemp, Locust Grove, expressed her concerns regarding the illegal alien crises in Culpeper and encouraged the Sheriff to submit a memorandum of agreement (MOA) to ICE. She noted that the Sheriff was waiting for available classroom space, but an MOA was required prior to enrollment. She stated she had informed the Sheriff about the "State Criminal Alien Assistance Program" that provided Federal payments to States and localities that incurred correctional officer salary costs for incarcerating undocumented criminal aliens for various violations. She also stated that the study requested by the Town Council on the costs of services for illegal aliens was a complete failure since only the Probation Department responded with figures, the Commonwealth's Attorney was still compiling information to be submitted, and the other agencies did not respond at all. She said it was vital that localities track information on where tax money was being spent to benefit illegal aliens so that the local jurisdiction could set rules and document those rules denying benefits to illegal aliens. She provided the Board with copies of an extensive study done by Prince William County as a model for Culpeper to follow.

Mr. Walter Bell, President of Rose Hill Farm of Culpeper and representing Covington Estate, spoke in support of a Culpeper Heritage Equestrian Trail and, more specifically, in support of a recreational infrastructure for Culpeper County. He stated that if a community did not plan a balanced recreational infrastructure, it would end up with varied athletic activities that were destination oriented instead of a master plan for biking, hiking, canoeing, fishing, as well as equestrian trails. He said the positive results of a broader planned recreational infrastructure were a healthier community, more open space, a greater appreciation of the community, a broader understanding of nature, and a wider recreational foundation for all ages, as well as a greater attractiveness for corporations to relocate to the County. He urged the Board to consider a planned recreational infrastructure that would include the Culpeper Heritage Equestrian Trail.

Ms. Alisha Payne spoke in support of creating a planned recreation infrastructure for the County and cited her 14 years of experience in working to establish multiuse trails for Fairfax County. She urged the Board to include planning for comprehensive trails in the County's master plan while the land was still available because once the land was developed, it was gone forever. She offered her assistance in the planning process to achieve multiuse trails within the County.

Mr. Coates announced that due to the 30-minute time allowance for the Citizen Forum, only one more speaker would be heard. He welcomed those who had not spoken to return and speak at next month's meeting.

Mr. Tom Underwood, Salem District, expressed his support for the multiuse trails, but said his purpose in speaking was to address several items discussed during the morning meeting. He commended the Board for its action regarding illegal immigration, but felt that the time limit should be reduced for the citizen referendum to be placed on the ballot. He said he was disappointed in the Board's action in approving the consulting contract prior to hearing the presentation and felt that a short-term extension could have been given in the interim.

Mr. Coates closed the Citizen Forum and recessed the meeting at 8:35 p.m. so those in the audience who wished to leave could do so.

Mr. Coates called the meeting back to order at 8:37 p.m.

AGENDA ADDITIONS AND/OR DELETIONS

Mr. Bossio asked that the following items be added under **PUBLIC HEARINGS: THE BOARD WILL RECEIVE PUBLIC COMMENTS AND CONSIDER BUDGET AMENDMENT FOR \$3,300,000 TO PURCHASE 200 WATER AND SEWER TAPS FROM THE TOWN OF CULPEPER**, and **THE BOARD WILL CONSIDER A REIMBURSEMENT RESOLUTION FROM**

INDEBTEDNESS PROCEEDS FOR THE PURCHASE OF 200 TAPS FROM THE TOWN OF CULPEPER.

Mr. Nixon moved, seconded by Mr. Walker, to approve the agenda as amended.

Mr. Coates called for voice vote.

Ayes - Aylor, Chase, Coates, Hansohn, Nixon, Rosenberger, Walker

Motion carried 7 to 0.

PUBLIC HEARINGS

THE BOARD OF SUPERVISORS WILL RECEIVE PUBLIC COMMENTS AND CONSIDER AMENDMENTS TO CULPEPER COUNTY CODE, CHAPTER 7 – ELECTIONS.

Mr. Coates stated that the purpose of the ordinance changes was to correct conflicts and errors in the written description of the magisterial districts and precinct boundaries, and to approve the related maps, which were unchanged.

Mr. Coates opened the public hearing and called for public comments.

Mr. Aaron Greso, West Fairfax District, suggested that a power backup system should be made available for the voting machines to ensure uninterrupted operations at the various voting stations.

With no further comments, Mr. Coates closed the public hearing.

Mr. John Egertson, Planning Director, explained that although the agenda specified two items, there was actually a single amendment to Chapter 5 of the County Code on Election being considered. He said the two issues covered by the proposed amendment were to correct some errors in the district and precinct descriptions; and to move the polling location within the Brown's Store precinct of the Salem District from its current location at the Chevrolet dealership to the Reva Volunteer Fire Department.

Mr. Coates stated the Board would hold a separate public hearing on each issue.

Mrs. Hansohn moved, seconded by Mr. Aylor, to approve the ordinance changes to correct errors in the description of the magisterial districts and precinct boundaries, and to approve the related maps.

Mr. Coates called for voice vote.

Ayes - Aylor, Chase, Coates, Hansohn, Nixon, Rosenberger, Walker

Motion carried 7 to 0.

Mr. Coates stated that the Board would consider moving the polling location for the Browns Store Precinct (# 0402) of the Salem District from 10411 James Monroe Highway, Culpeper, VA 22701, to 18230 Birmingham Road, Culpeper, VA 22701 (Reva Volunteer Fire Department).

Mr. Coates opened the public hearing and called for public comments.

There were none, and Mr. Coates closed the public hearing.

Mr. Nixon moved, seconded by Mr. Walker, to approve relocation the polling place from the Chevrolet dealership to the Reva Volunteer Fire Department.

Mr. Coates called for voice vote.

Ayes - Aylor, Chase, Coates, Hansohn, Nixon, Rosenberger, Walker

Motion carried 7 to 0.

THE BOARD OF SUPERVISORS WILL RECEIVE PUBLIC COMMENTS AND CONSIDER BUDGET AMENDMENTS (1) \$3,300,000 TO PURCHASE 200 WATER AND SEWER TAPS FROM THE TOWN OF CULPEPER, AND (2) \$1,325,000 FOR OFF-SITE INFRASTRUCTURE PROJECTS FOR THE NEW HIGH SCHOOL

Mr. Coates stated that the Board would consider amending the budget in the amount of \$3.3 million to purchase 200 water and sewer taps from the Town of Culpeper.

Mr. Bossio recalled that the County entered into a Water and Sewer Agreement with the Town of Culpeper in 2003 to purchase water and sewer taps from the Town. He explained that a public hearing was required by law in order to spend more than \$500,000 in any adjusted period. He stated that subsequently a public hearing would be held on a resolution to reimburse the General Fund for the purchase of the 200 water and sewer taps.

Mr. Coates opened the public hearing and called for public comments.

Mr. Tom Underwood, Salem District, said he had received questions from constituents he had been meeting with in the Salem District and asked for clarification regarding the proposed use of the 200 taps.

Mr. George Bryson, Jefferson District, stated he was opposed to the purchase of the 200 taps.

Mr. D. R. Griffith, Stevensburg District, expressed his opposition to the County's using taxpayers' money to purchase 200 water and sewer taps that a developer should purchase.

Mr. Gardiner Mulford, owner of Mulford Realty, stated he was opposed to the County's buying water taps for private businesses with taxpayers' money. He said the County should remain in the business of governing and not operate water treatment plants.

Mr. Aaron Greso, West Fairfax, stated his understanding was that the County would purchase the taps and then be reimbursed by new businesses as they bought the taps from the County. He spoke in support of the purchase as long as taxes were not increased.

With no further comments, Mr. Coates closed the public hearing.

Mr. Chase stated that only Mr. Greso understood that the taps would not be given away,

but the costs would be repaid by businesses and developers as tap connections were required. He stated he was surprised that anyone who dealt in real estate did not realize that no business would locate here unless it was guaranteed sewer and water.

A gentleman arose in the audience and started to address Mr. Chase's comments. Mr. Coates called for order and indicated the public hearing had been closed.

Mrs. Hansohn indicated that the County had been in the water and sewer business for quite a few years and a Water and Sewer Authority was in place in order to have the infrastructure ready for properties already zoned for a particular use to buy these taps.

Mrs. Hansohn moved, seconded by Mr. Chase, to approve amending the budget in the amount of \$3.3 million to purchase 200 water and sewer taps from the Town of Culpeper.

Mr. Coates called for voice vote.

Ayes - Aylor, Chase, Coates, Hansohn, Nixon, Rosenberger, Walker

Motion carried 7 to 0.

Mr. Coates stated that the Board would consider amending the budget in the amount of \$1.325 million for the new high school off-site infrastructure projects.

Mr. Paul Howard, Environmental Services Director, explained that the appropriation was for offsite water and sewer improvements and road improvements to serve the new high school. He said after the bids had been received for these improvements, some scope changes caused the bid prices to exceed the \$3.9 million budget that was borrowed in 1995 based a preliminary engineering report. He noted that the sewer service would be supplied by a package wastewater treatment plant purchased by the County that caused water and sewer service to be approximately \$2 million over budget, but the road improvements for Jonas Road and Route 666 were approximately \$1 million under budget, resulting in a net shortfall of \$1.325 million. He added that this amount would be reimbursed to the County General Fund through the sale of the sewer connections in that area.

Mr. Bossio clarified that by not purchasing sewer taps from the Town and buying a wastewater treatment plant instead had resulted in this increase in price.

Mr. Coates opened the public hearing and called for public comments.

Mr. D. R. Griffith, Stevensburg District, stated this request was a prime example of development moving in the wrong direction. He questioned why the school was approved with no infrastructure and why taxpayers' money was used to fund it.

Mr. George Bryson, Jefferson District, expressed his opposition to spending tax dollars on infrastructure for sewer and water.

Mr. Aaron Greso, West Fairfax, stated he would like for the Board to indicate where the

funds were coming from when discussing future projects such as new schools.

With no further comments, Mr. Coates closed the public hearing.

Mrs. Hansohn expressed her surprise that so many citizens were not aware of the increase in new businesses over the last few years. She indicted that the offsite improvements for the new school had been approved sometime ago, and she could not understand the opposition for a project planned for and approved earlier.

Mrs. Hansohn moved, seconded by Mr. Aylor, to approve amending the budget in the amount of \$1.325 million for the offsite infrastructure projects for the new high school.

Mr. Coates called for voice vote.

Ayes - Aylor, Chase, Coates, Hansohn, Nixon, Rosenberger, Walker

Motion carried 7 to 0.

Mr. Coates stated that a public hearing was not required for the appropriation of funds. He said the Board would consider appropriating \$3.3 million to purchase the 200 water and sewer taps from the Town.

Mr. Nixon moved, seconded by Mrs. Hansohn, to appropriate the \$3.3 million to purchase the 200 water and sewer taps from the Town of Culpeper.

Mr. Coates called for voice vote.

Ayes - Aylor, Chase, Coates, Hansohn, Nixon, Rosenberger, Walker

Motion carried 7 to 0.

Mr. Coates stated that the Board would consider a reimbursement resolution from indebtedness proceeds for the purchase of 200 taps from the Town of Culpeper.

Mr. Nixon moved, seconded by Mr. Aylor, to adopt the reimbursement resolution for the \$3.3 million for the sale of the 200 water and sewer taps from the Town of Culpeper.

Mr. Coates called for voice vote.

Ayes - Aylor, Chase, Coates, Hansohn, Nixon, Rosenberger, Walker

Motion carried 7 to 0.

Mr. Coates stated that the Board would consider appropriating the \$1.325 million for the new high school offsite infrastructure projects.

Mr. Walker moved, seconded by Mr. Aylor, to appropriate the \$1.325 million for the new high school offsite infrastructure projects.

Mr. Coates called for voice vote.

Ayes - Aylor, Chase, Coates, Hansohn, Nixon, Rosenberger, Walker

Motion carried 7 to 0.

UNFINISHED PLANNING COMMISSION BUSINESS

ADDITION TO THE REMINGTON/KELLY'S FORD AGRICULTURAL AND FORESTAL DISTRICT.

Request by Richard Calloway and Heningham E. Scott to add 618.17 acres to the Remington/Kelly's Ford Agricultural and Forestal District. The property is located on Route F717 in the Stevensburg Magisterial District. Tax Map/Parcel Nos. 34/71, 72 and 35/1A.

Mr. John Egertson, Planning Director, displayed a copy of the tax map that highlighted the location of the existing Remington/Kelly's Ford Agricultural and Forestal District and the site of the proposed 618-acre addition. He explained that the request had been tabled by the applicant for the last couple of months, but he understood the applicant was ready to move forward with the request at this time. He recalled that the Planning Commission agreed with the Agricultural and Forestal Districts Advisory Committee and found the addition to be appropriate.

Mr. Egertson called the Board's attention to two letters he had received from: (1) Michael J. Coughlin, representing USA Development, requesting the Willow Run development rezoning proposal be exempted from the buffer requirements under Article 8E of the County Code because the request for rezoning had been made approximately one year previously and well in advance of the Agricultural and Forestal District request; and (2) a letter from Mr. Butch Davies representing the Calloway-Scott application, objecting to any provision that would exempt the USA Development rezoning application from Article 8E. He said the buffering issue was raised at the Planning Commission level, but the Commission felt it was ultimately a decision the Board would make through the rezoning process and saw no reason to attach any caveats to the request before the Board. He stated the property was a valuable addition to the District and recommended the Board's approval.

The applicant's representative was present to represent the request.

Mr. Coates opened the public hearing and called for public comments.

Mr. Wayne Stilwell, Stevensburg District, spoke in opposition to the 200-foot buffer because it would infringe on his property. He questioned whether the buffer would apply to the adjacent property located in Fauquier County.

Mr. Coates informed Mr. Stilwell that staff would answer his question after the public hearing.

Mr. Stilwell pointed out that 200 feet on 618 acres was a lot of miles, and he was against imposing the buffer. He said he would be penalized if he should decide to rezone his property sometime in the future. He felt the buffer should be entirely on the property going into the Agricultural and Forestal District.

Mr. George Bryson, Jefferson District, stated that he spoke at the Planning Commission meeting in favor of the addition to the Agricultural and Forestal District. He said he would like to see more farmland added in order to protect agriculture.

Ms. Farrer Walter, Salem District, urged the Board to enforce the buffers around any Agricultural and Forestal District because they would protect farmers, the working landscape, and the operations occurring of the property.

Mr. Michael Couglin stated he was representing USA Development, the applicant for the Willow Run rezoning that was south of the property under consideration. He reviewed the contents of his letter of August 3 in detail and asked that the Willow Run rezoning application and subsequent site plans submitted in furtherance of the rezoning application be exempted from the provisions of Article 8E. He said that USA Development did not oppose the addition of the Calloway-Scott property to the Agricultural and Forestal District, but would ask for the specific exemption since the rezoning request was submitted some time ago. He added that the rezoning request would receive further scrutiny by the Planning Director, the Planning Commission, and the Board of Supervisors, as well as by the Calloways. He said the benefit of exempting the Willow Run application from Article 8E would eliminate the need to have the rezoning and subsequent site plans reviewed by the Agricultural and Forestal Districts Advisory Committee and would not be subject to potentially larger buffers than what were currently being discussed.

With no further comments, Mr. Coates closed the public hearing.

Mr. Chase moved that the ordinance modifying the Remington/Kelly's Ford Agricultural and Forestal District add the 618 acre Calloway-Scott property be approved with the following condition: Provision of Article 8E, Section 8E 7-3 shall not be applied to Tax Map Parcels 34/3, 3B, 65 and 66 and Case Nos. Z-413-06-1 or any subsequent related site plans due to the fact that the referenced case was filed and active prior to the request for the Ag and Forestal District condition.

The motioned died for lack of a second.

Mr. Rosenberger moved to accept the recommendation of the Planning Commission and the Agricultural and Forestal Districts Advisory Committee and approve the addition to the Remington/Kelly's Ford Agricultural and Forestal District.

Mr. Rosenberger stated that he understood Mr. Chase's concerns, but State law specifically stated that the adjacent land to the Agricultural and Forestal Districts shall be protected.

Mrs. Hansohn seconded the motion. She said the Board would have the opportunity to address the buffers when the Willow Run rezoning moved forward.

Mr. Coates asked Mr. Egertson to address Mr. Stilwell's question regarding the property buffers and whether they applied to Fauquier County. Mr. Egertson replied that the buffers would not apply to Fauquier County.

Mr. Coates called for voice vote.

Ayes - Aylor, Chase, Coates, Hansohn, Nixon, Rosenberger, Walker

Motion carried 7 to 0.

NEW PLANNING COMMISSION BUSINESS

CASE NO. U-2121-07-1. Request by Upshire Realty Advisors, LLC, for approval of a use permit to allow a pharmacy with twin drive through windows. The property is located on Route 15/29 Business and Route 1023 in the Stevensburg Magisterial District and contains 2.03 acres. Tax Map/Parcel No. 41/75 and Tax Map/Parcel No. 41C(3)/22.

Mr. Sam McLearen, Zoning Administrator, informed the Board that the Planning Commission had considered the case and a public hearing was held. The Planning Commission found this request to be consistent with Article 17 of the Zoning Ordinance. He said the Planning Commission was recommending to the Board of Supervisors that the use permit be approved.

Mr. Egertson displayed a copy of the tax map that highlighted the location of the proposed Walgreen pharmacy at the corner of Route 15/29 Business and Montanus Drive. He said the issue before the Board was not whether the pharmacy was permitted, but rather the drive-through portion of the business was appropriate since the County Code required a use permit for any drive-through uses. He noted that the proposed use was for a dual drive-through window and each window would have five stacking spaces that exceeded the minimum required by our Code. He stated that the use had raised no concerns from the Planning staff or from the Planning Commission, and it was being recommended for the Board's approval.

Mr. Bob Hudson, attorney representing the applicant, said that the applicant was seeking to construct a Walgreen's pharmacy, and the sole issue was whether the dual drive-through component of the facility was appropriate. He said the applicant suggested there were three reasons to support the use permit request: (1) Both the Planning Commission and Planning staff supported the use; (2) the pharmacy with a drive-through component would increase the County's commercial tax base; and (3) the Board had previously approved seven use permit applications for a dual drive-three feature between October 2005 and March of this year in the

vicinity of this site. He asked for the Board's unanimous approval of the request for a use permit.

Mr. Coates opened the public hearing and called for public comments.

Mr. Tom Underwood, Salem District, stated that Walgreen's was by far the leader in drug store retailers, and this store would be an asset to the community at the proposed location.

With no further comments, Mr. Coates closed the public hearing.

Mr. Chase moved, seconded by Mr. Aylor, to approve the use permit.

Mr. Coates asked how the store would affect the additional roadway improvements for Route 15/29 business. Mr. Egertson replied that road improvements would be addressed at the site plan review. He said that VDOT had an extensive list of comments to ensure that the site would comply with the four-laning plans, and they had expressed concerns about the entrance on Montanus Drive.

Mr. Walker inquired about the availability of water and sewer. Mr. Egertson stated that the property was part of the old Montanus Trade Center and was fully served by the Town.

Mr. Coates called for voice vote.

Ayes - Aylor, Chase, Coates, Hansohn, Nixon, Rosenberger, Walker

Motion carried 7 to 0.

ADJOURNMENT

Mrs. Hansohn moved to adjourn at 8:25 p.m.

Peggy S. Crane, CMC
Deputy Clerk

John F. Coates, Chairman

ATTEST:

Frank T. Bossio
Clerk to the Board

Approved: September 4, 2007